

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2008CF2864
)	EEOC NO.: 21BA81708
PATRICIA MEFFORD)	ALS NO.: 09-0597
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners David Chang, Marylee Freeman, and Charles E. Box presiding, upon Patricia Mefford's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")¹ of Charge No. 2008CF2864; and the Commission having reviewed all pleadings filed in accordance with 56 Ill. Admin. Code, Ch. XI, Subpt. D, § 5300.400, and the Commission being fully advised upon the premises;

NOW, THEREFORE, it is hereby **ORDERED** that the Respondent's dismissal of the Petitioner's charge is **SUSTAINED** on the following ground:

LACK OF SUBSTANTIAL EVIDENCE

In support of which determination the Commission states the following findings of fact and reasons:

1. On April 12, 2008, the Petitioner filed a charge of discrimination with the Respondent. The Petitioner alleged in her charge that Nashville Community High School District #99 ("Employer") subjected her to unequal terms and conditions of employment in retaliation for having opposed unlawful discrimination, in that the Employer asked the Petitioner to surrender her Employer-issued credit card (Count A), and the Employer changed its locks and denied the Petitioner access to her office (Count B), in violation of Section 6-101(A) of the Illinois Human Rights Act (the "Act"). On September 24, 2009, the Respondent dismissed the Petitioner's charge for Lack of Substantial Evidence. On October 10, 2009, the Petitioner timely filed her Request.
2. The Petitioner is employed as a secretary.
3. On February 7, 2008, the Employer told the Petitioner that its cameras caught the Petitioner in its principal's office on February 2, 2008, without the principal's permission.
4. On February 15, 2008, the Employer changed the locks to its offices.

¹ In a Request for Review Proceeding, the Illinois Department of Human Rights is the "Respondent." The party to the underlying charge requesting review of the Department's action shall be referred to as the "Petitioner."

5. On February 19, 2008, the Petitioner filed charges of discrimination against the Employer with the Respondent.
6. On March 12, 2008, the Employer discovered an unknown charge on a credit card that it had issued to the Petitioner. Only the Employer's employees were permitted to use the Employer-issued credit card, and it appeared that an unauthorized user had made a purchase using the Petitioner's Employer-issued credit card.
7. On March 17, 2008, the Employer asked the Petitioner to surrender the credit card.
8. On May 2, 2008, the Employer issued the Petitioner a new credit card.
9. In her charge and her Request, the Petitioner contends the Employer took her credit card on March 17, 2008, and locked her out of her office on February 15, 2008, in retaliation for having filed charges of discrimination on February 19, 2008.
10. In its response, the Respondent asks the Commission to sustain its dismissal of the Petitioner's charge. As to Count A, the Respondent argues there is no substantial evidence the Employer took away the Petitioner's credit card in retaliation for having engaged in protected activity. The Employer stated a non-retaliatory reason for doing so, and there was no evidence this stated reason was merely pretextual. As to Count B, the Respondent argues there is no causal connection between the locks being changed on February 15th and the protected activity—the filing of the charge—on February 19th, because the alleged retaliatory conduct occurred before the protected activity.

CONCLUSION

The Commission concludes that the Respondent properly dismissed all counts of the Petitioner's charge for lack of substantial evidence. If no substantial evidence of discrimination exists after the Respondent's investigation of a charge, the charge must be dismissed. See 775 ILCS 5/7A-102(D). Substantial evidence exists when the evidence is such that a reasonable mind would find the evidence sufficient to support a conclusion. See In re Request for Review of John L. Schroeder, IHRC, Charge No. 1993CA2747 (March 7, 1995), 1995 WL 793258 (Ill.Hum.Rts.Com.)

As to Count A, the Commission finds no substantial evidence of retaliation. The Petitioner admitted there was an unauthorized or unknown charge on her Employer-issued credit card in March 2008. Given that both the Petitioner and the Employer agree on the factual basis for the Employer's decision to take back the Petitioner's credit card, the Commission finds no substantial evidence that the Employer's stated reason for taking the Petitioner's credit card was a pretext for retaliation. Further, in her charge the Petitioner specifically complained that she was promised a new credit card, but as of April 11, 2008, none had been issued to her by the Employer. However, during the course of the Respondent's investigation, the Petitioner admitted that the Employer had in fact provided her with a replacement credit card on May 2, 2008.

The Commission also finds no merit to the Petitioner's retaliation claim alleged in Count B. As the Respondent correctly notes, it is axiomatic that the alleged retaliatory conduct must follow the protected activity. See Pace and State of Illinois, Department of Transportation, ____ Ill.HRC Rep. ____

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(1989SF0588, February 27, 2995)(Slip op. at 13); see also Bregenhorn and C.C. Services, Inc., ALS No. S10596, 2004 WL 3312882 at 6 (Ill. HRC. Apr. 2, 2004).

The Employer changed the locks on February 15, 2008. Afterwards, the Petitioner filed her charge on February 19th. The Petitioner's retaliation claim fails because the alleged retaliatory conduct took place before the protected activity.

Accordingly, it is the Commission's decision that the Petitioner has not presented any evidence to show that the Respondent's dismissal of her charge was not in accordance with the Act. The Petitioner's Request is not persuasive.

THEREFORE, IT IS HEREBY ORDERED THAT:

The dismissal of Petitioner's charge is hereby **SUSTAINED**.

This is a final Order. A final Order may be appealed to the Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and Nashville Community High School District #99, as Respondents with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

STATE OF ILLINOIS

HUMAN RIGHTS COMMISSION

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Entered this 12th day of May 2010.

Commissioner David Chang

Commissioner Marylee V. Freeman

Commissioner Charles E. Box